

August 3, 2011

BY ECF

The Honorable Donna M. Ryu
United States Magistrate Judge
Northern District of California
1301 Clay Street, Courtroom 4, 3rd floor
San Francisco, California 94612

Re: *Oracle America, Inc. v. Google Inc.*, No. 3:10-CV-03561-WHA (N.D. Cal.)
Joint Letter Regarding Oracle's Request for Non-Mobile Data and Projections

Dear Judge Ryu:

In accordance with Your Honor's instructions during the parties' meet and confer conference on August 1, 2011, we write to update the Court on the status of the parties' continuing meet and confer efforts on Oracle's request that Google produce non-mobile data and projections.

As required by the Court, the parties met and conferred by telephone on August 2, 2011. In addition to litigation counsel from Boies, Schiller & Flexner, Oracle had in attendance two of its retained experts, Brian Gorin (an economist and engineer) and Evan Schouten (an economist). In addition to its outside counsel from King & Spalding, Google had in attendance Renny Hwang (inside counsel for Google) and Rachel Claflin (a litigation paralegal responsible for document collection and production at Google).

During the conference, the parties discussed in detail the types of information and data kept by Google, the volume of some of the categories of data requested by Oracle, and the feasibility of producing the data requested by Oracle. More specifically, the parties discussed Google's ability to generate account-level records with search volume, CPC (cost-per-click), CTR (click-through-rate), and search advertising revenue by month or by calendar quarter, for specific keywords. The parties also discussed whether that data could be collected in any aggregate form across multiple customers, as requested by Oracle, in view of the fact that the number of keywords used by Google (in the tens or hundreds of millions) is extremely large and such aggregation would require significant effort by one or more engineers and significant computing time.

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The parties also discussed the conditions under which Google is willing to produce non-mobile data and the Court's requirement that Oracle identify specific evidence that justifies the discovery it is requesting. Both parties agreed to obtain additional information following the conference, and Oracle agreed to provide Google with a more specific identification of the information Oracle's experts would like to have, if feasible. Oracle has also identified to Google certain Google documents that Oracle believes justify the discovery it is requesting.

Late last evening, Oracle forwarded to Google a more specific identification of the information Oracle desires. Specifically, Oracle has proposed that Google provide to Oracle a list of all keywords that were active during July 2011 and, after selection of 5,000 keywords by Oracle from that list, Google provide certain specified monthly data for those keywords going back to 2004. Google is considering Oracle's proposal and will provide a response to Oracle and a counter-proposal later today.

Based on the discussions thus far, the parties still hope to reach an agreement with respect to Google's production of certain non-mobile data and projections. Nonetheless, given the other deadlines and the proximity of trial, Oracle and Google have agreed that to the extent they have not reached complete agreement by the close of business on Friday, August 5, they will submit any remaining disputes to the Court for resolution.

Respectfully submitted,

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ATTESTATION OF FILER

I, Fred Norton, have obtained Mr. Bruce W. Baber's concurrence to file this document on his behalf.

Dated: August 3, 2011

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Fred Norton
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